



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,900	06/26/2001	Kenneth W. Rake	IFLOW.2CP2F3C1	2814
20995	7590	03/31/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			REICHLER, KARIN M	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/892,900	RAKE ET AL.	
	Examiner	Art Unit	
	Karin M. Reichle	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17, 19, 23, 24, 30, 33 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17, 19, 23, 24, 30, 33 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Language Interpretation

2. It is noted that none of the claim language has been specifically defined. Therefore the terms of the claim will be given their common, i.e. dictionary, definition as is consistent with the specification. "Platen" as defined by the dictionary is "One of the two flat members of the printing press that serves to position the paper and hold it against the inked type". Since this is not consistent with the specification, "platen" will be interpreted as a member which is capable of exerting pressure. See also discussion *infra*.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 14-17, 19, 23, 24, 30, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bau '852.

See, e.g., Figures 2 and 4 and col. 5, lines 29-38: 3 and 7 or 2 and 3 or 2, 3 and 7 are threadably engaged shells of generally circular outer shape, the "platen", see Claim Interpretation

Art Unit: 3761

section supra, is 31 with nonplanar surface, adjacent 32, which is “complementary”, i.e. defined as “forming or serving as a complement, completing”, to inner surface of shell 7, adjacent 8, or the inner surface of 8, which shell and platen surfaces have a substantially planar central portion, e.g. adjacent 9 and 79, respectively, and a nonplanar annular portion, e.g. adjacent 8 and 31, respectively, and 78 is a spring fastened to shell 3. Also see col. 3, lines 20-23 of Bau, i.e. the space defined between the platen and the shell holds a fluid bag 25 therein. Note claim 24 with regard to this teaching also. With regard to limitation of the distance of the movement of the platen in a first direction being less than about one-fourth of a minimum dimension in a direction perpendicular to that direction such that the working length of the spring is no more than about 41 percent of a free length of the spring, compare Figures 2 and 4 which show the distance of movement less than a perpendicular dimension of the space holding the bag 25. With regard to the working length of the spring being no more than 41 percent of a free length of the spring, see, e.g. col. 3, lines 32-50, i.e. a spring which is pressing on or being held against the empty bag wall and interior surface of the first shell. Therefore, it is the Examiner’s first position that 1) the Bau patent teaches all the claimed structure and function except for the wherein clause of the last section of each of the independent claims, i.e. including the underlined language. In any case, the Examiner’s second position, 2) with regard to the language of lines 1, and 7-8, i.e. “said space...therein”, and the first three lines of the last section of claim 1, similar language in claims 19 and 23 and line 1 of claim 23, such language recites function, properties or capabilities of structure recited in the claim. Again, the Bau patent includes such claimed structure including a bag 25. Therefore there is sufficient factual basis for one to conclude that the function, properties or capabilities of such claimed structure are also necessarily and inevitably present in

Art Unit: 3761

the same structure of Bau. Regardless of whether the Bau reference teaches 1) or 2) supra, with respect to the wherein clause of the independent claims the claims require a) the range of movement of the platen being about a quarter of the minimum perpendicular dimension of the space and b) the working length of the spring being no more than about 41% of the free length of the spring. With respect to a), while Figures 52-55 of the instant specification show such relationship, no criticality of the specific range has been set forth. With respect to b) while page 49, lines 12-14 and page 10, line 26 and lines 9-19 provide support for such language, i.e. “fraction” is considered to be a part of a whole, i.e. less than 100%, no criticality of the claimed specific range, i.e. no more than 41%, has been set forth. It is noted that page 49, lines 18-28 do not set forth the working length of the at least one spring is no more than 41% of a free length thereof, i.e. that portion of the specification sets forth “The sum of the axial travel of springs...” and that sum is about 41% of the free length of each of the springs”. See also discussion of arguments infra. With respect to both a) and b), while Bau does not show such specific ranges, see Figures 2 and 4 and col. 3, line 32-50 and col. 5, lines 29-38 of Bau, i.e. the dimensions and distances shown by the Figures and the spring of Bau presses or exerts force throughout its range of motion, i.e. the working length of 78 is necessarily and inevitably less than free length of 78, i.e. less than 100% thereof, because the spring 78 configured as taught by Bau would not press or exert force if it had reached its free length and it presses or exerts force throughout its total distance of movement. Note again col. 5, lines 34-35, i.e. Bau recognize the spring’s strength would control the compression amount. Therefore, it would be obvious to one having ordinary skill in the art at the time the invention was made to employ such ranges of movement and length since it has been held that where the general conditions of a claim are disclosed in the prior art,

i.e. both the claims and Bau recognize the spring exerting force or pressure through its range of movement, discovering the optimum or workable ranges involves only routine experimentation or skill in the art, see *In re Aller*, 105 USPQ 233. See also discussion in the following paragraph.

Response to Arguments

5. Applicant's remarks which are substantially similar to those filed 6-17-05 have been noted with regard to the prior art but are deemed not persuasive. First, it is again noted that the instant application has not explicitly described the invention of the scope claimed as achieving a recognized result. Second, again Bau does recognize that the movement, i.e. working distance, of the platen is determined by the spring, i.e. working length range, to control or result or produce the pressure to expel fluid from the bag, i.e. a result effective variable, see portions of Bau cited supra. Especially note again col. 5, lines 34-35, i.e. Bau recognize the spring's strength (It is noted this is the same as "F" as set forth on page 10, line 10 of the instant application, i.e. $F=kx$ and x is distance the spring is compressed, i.e. the free length-the compressed length=maximum working length) would control the compression amount, i.e. the force exerted on the bag by the platen, i.e. amount of movement of the platen which range of movement is less than the free length of the spring. Additionally as noted above page 49 does not teach the range of length now claimed. It is further noted that the claims do not set forth all the specifics, e.g. constants, lengths, diameters, etc., of the page 49, lines 18-28 embodiment. Finally, it is unclear whether Applicant is arguing the newly claimed working length range has the same criticality as that of such range disclosed on page 10 of the instant application, i.e. less than 100% (It is noted that Bau's working length meets this limitation as set forth in the previous

Art Unit: 3761

Office action). If so, such newly claimed range does not have any criticality over the range of less than 100% which Bau's length falls within. If it is Applicant's position that such does have criticality over the range of less than 100%, i.e. a "fraction", such argument would appear to introduce new matter because the range of more than about 41% to less than 100% which was previously considered necessary for criticality before the amendment would no longer be deemed necessary for criticality.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any new grounds of rejection were necessitated by the amendments to the independent claims.

Art Unit: 3761

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
March 26, 2006